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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/573,129

03/23/2006

Hansell H Stedman

UPNQ3278USA

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270 7590 07/30/2008

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EXAMINER

OSINSKI, BRADLEY JAMES

ART UNIT

PAPER NUMBER

3767

MAIL DATE

DELIVERY MODE

07/30/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/573,129	Applicant(s) STEDMAN ET AL.	
	Examiner BRADLEY J. OSINSKI	Art Unit 3767	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-24 and 33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-24 and 33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6-16-2006, 12-7-2006, 7-2-2008</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election of Group III (claims 21-24 and 33 in the reply filed on 6-29-2008 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 21-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Sahota (5,320,605).

a. Regarding claim 21, Sahota discloses a balloon catheter, such as in figure 5, that has an inflatable balloon 38 with an interior and capable of being expanded radially without significant distal expansion. A flexible cannula 14 with a distal and proximal end with internal channels capable of controlling application of fluid under pressure. The balloon 38 is connected to the cannula at multiple points 40, with one point of attachment being adjacent the distal end of the cannula and a second point adjacent the proximal end of the cannula.

- b. Regarding claim 22, As can be seen in figure 5, the balloon 38 is attached at more than three locations 40 along the cannula 14.
- c. Regarding claim 23, As can be seen in figure 5, multiple compartments are formed by the balloon 38 being attached at points 40.
- d. Regarding claim 24, As can be seen in figure 5, multiple compartments are formed by the balloon 38 being attached at points 40. One of the compartments is an intermediate compartment and is capable of being distended less than the other compartments to prevent excessive distension of the patient's heart. (Col.7 lines 9-33)

Claim Rejections - 35 USC § 103

- 3. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sahota (5,320,605).
 - e. Regarding claim 33, While Sahota substantially discloses the apparatus as claimed such as a balloon catheter according to claim 21 (see above) and a method of use (claims 5-11 and 21), it does not specifically disclose the two packaged together. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to package the method of use of Sahota with the device of Sahota so that a user would know how to relieve stenotic regions of a body lumen or exchange two or more balloons within a site in a body lumen.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRADLEY J. OSINSKI whose telephone number is (571)270-3640. The examiner can normally be reached on M-Th 8AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on (571)272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Bradley J Osinski/
Examiner, Art Unit 3767
/Kevin C. Sirmons/
Supervisory Patent Examiner, Art Unit 3767